

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of)
Southway Storage for Change of Electric)
Supplier From the Empire District Electric) **FILE NO. EO-2024-0194**
Company d/b/a Liberty to White River Valley)
Electric Cooperative, Inc.)

**JOINT LIST OF ISSUES, LIST OF EXHIBITS, AND ORDER OF WITNESSES,
ORDER OF OPENING STATEMENTS, AND CROSS EXAMINATION**

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel on behalf of all the parties¹, and submits this *Joint List of Issues, List of Exhibits, and Order of Witnesses, Order of Opening Statements, and Cross Examination*. Staff tenders this pleading with this reservation: Based on all communications occurring over the past weekend and on August 12, no party has objected to this pleading as a joint filing. Because of the press of business, however, communication has not been perfect, and Staff cannot state with certainty that all parties are in complete agreement as to the exact wording or phrasing of issues; or that no party might wish to place an additional issue(s) before the Commission for decision. To be clear: Staff knows of no disagreement, but neither has Staff been assured of perfect agreement either. Staff, accordingly, tenders this pleading with the reservation that any party wishing to do so should file pleadings as it deems appropriate, consistent with the Commission’s orders.

¹ The parties are Applicant Southway Storage, LLC (“Southway”); The Empire District Electric Company d/b/a Liberty (“Liberty”); White River Valley Electric Cooperative, Inc. (“White River”); and the Staff of the Missouri Public Service Commission (“Staff”). Staff is advised that OPC will not participate.

List of Issues:²

Notwithstanding the provisions of Section 394.315.2, RSMo. and sections 91.025, 393.106, and 394.080 to the contrary, can White River Electric provide new permanent electric service to a new structure and to other new structures anticipated with the commercial development of a parcel of property, at the request of the owner of the property, when such property once had a home and water well served by White River but no longer does because service was discontinued, the home was demolished and water well abandoned, the property no longer receives electric service from White River, and where such property is now within the city limits of Ozark, Missouri and therefore within territory served by Liberty?

Is the public interest better served by allowing White River Electric to provide permanent service to the Property considering its annexation into the City of Ozark and Applicant's "choice" for White River's permanent service that is based on reasons other than a rate differential?

Should the Commission's 10-factor test guide its analysis on the public interest determinations in this case?

Does Missouri law support White River's permanent service to the Property under the 2021 Amendments which promote more consumer "choice" because the Applicant in this case desires White River to serve the Property and the 10-factor test for public interest determinations weighs in favor of White River's supply?

Is the Applicant's request to have White River Electric serve the Property, on balance, in the public interest because it makes the best and most efficient, effective use of existing facilities at the least cost to the Applicant, and prevents an otherwise duplication of facilities should Liberty Utilities provide such service?

Does the anti flip-flop statute (Section 393.106, RSMo.) have any legal import on the determination of the issues in this case when there is no existing structure on the property that has received electric service from either White River Electric or Liberty Utilities?

Must the Commission's order in this case take into consideration its duties to enforce the Section 393.130, RSMo, "just and reasonable" mandates and prohibitions by recognizing the costs that will be incurred by Liberty Utilities (and charges to the Applicant) to bring electric service to the Property, upholding the legal mandate that Liberty Utilities must provide safe and adequate service at just and reasonable rates and cannot charge unjust or unreasonable rates, in the Commission's determination establishing which utility should serve the Property with permanent electric service?

² Not all parties agree that the listed issues should and/or may be addressed by the Commission in this docket, and by agreeing to the list of issues for this submission, the parties do not waive jurisdictional or other legal arguments.

May the Commission deny the application consistent with the Commission's duty to ensure that every public utility is required to furnish and provide instrumentalities and facilities at charges that are just and reasonable?

List of Exhibits

Southway's Exhibits

Exhibits 1-99

Exhibit 1 – Application for Change of Electric Supplier

Exhibit 2 – Notes from March 2, 2023, Meeting with the Planning and Development Department of the City of Ozark, MO, regarding Southway Storage

Exhibit 3 – Map of Southway Storage Property

Liberty's Exhibits

Exhibits 100-199

White River's Exhibits

Exhibits 200-299

Exhibit 200 – Christian County Assessor Parcel Detail

Exhibit 201 – City of Ozark Annexation Date Confirmed by City (9.6.2022)

Exhibit 202 – White River Facilities at Property (DR 4.0)

Exhibit 203 – White River Facilities Nearby (DR 5.0)

Exhibit 204 – White River Facilities Planned for Southway Storage (DR 6.0)

Exhibit 205 – White River's Estimated Costs to Serve (DR 6.1)

Exhibit 206 – White River's Previous Electric Service to Property (DR 7.0)

Exhibit 207 – Date of Property Annexation (DR 8.0)

Staff's Exhibits

Exhibits 300-399

Exhibit 300 – Application for Change of Supplier

Exhibit 301 – Liberty's Response to Application

Exhibit 302 – White River's Response to Order Directing Filing

Exhibit 303 – Staff's Recommendation

Exhibit 304 – Liberty's Response to Staff's Recommendation

Exhibit 305 – White River's Response to Staff's Recommendation

Exhibit 306 – Southway Storage's Response to Staff's Recommendation

Order of Witnesses and Cross Examination

Southway

Garrett Stancer

Order of Cross Examination: Liberty, White River, Staff,

Staff

Witness(es)
Alan Bax
Order of Cross Examination: Liberty, White River, Southway,

White River

Witness(es)
Rick Johnson, VP of Engineering for White River Electric
Order of Cross Examination: Liberty, Southway, Staff

Liberty

Eric Babbitt, Hayley Sirmon
Order of Cross Examination: Southway, White River, Staff

Order of Opening Statements

Southway
Staff
Liberty
White River

WHEREFORE, Staff prays on behalf of all of the parties herein that the Commission will accept this *List of Issues, List of Exhibits, and Order of Witnesses, Order of Opening Statements, and Cross Examination.*

Respectively Submitted,

/s/ Paul T. Graham

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel of record as reflected on the certified service list maintained by the Commission in its Electronic Filing Information System this 12th day of August, 2024.

Paul T. Graham